

RECEIVED

IN THE MATTER OF MEDIATION/ARBITRATION PROCEEDINGS JUN 14 1983

BETWEEN

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

SCHOOL DISTRICT OF STURGEON BAY	)	Case IX, No. 30060
and	)	MED/ARB 1812
STURGEON BAY EDUCATION ASSOCIATION	)	Decision No. 20263-A

MEDIATOR/ARBITRATOR: Jay E. Grenig  
 556 W23674 Maplewood Terrace  
 Waukesha, WI 53186

APPEARANCES:

For the Employer: Clifford B. Buelow, Attorney at Law  
 Davis, Kuelthau, Vergeront  
 250 E. Wisconsin Ave.  
 Milwaukee, WI 53202

For the Association: Lawrence G. Gerue, Program Director  
 Bayland Teachers United  
 1540 Capitol Drive  
 Green Bay, WI 54303

I. BACKGROUND

This is a matter of final and binding interest arbitration pursuant to Section 111.70(4)(cm)6 of the Wisconsin Municipal Employment Relations Act. The Sturgeon Bay Education Association (Association) is the exclusive representative of a collective bargaining unit in the School District of Sturgeon Bay (District) consisting of all full-time and part-time employees of the District engaged in teaching, including classroom teachers, guidance counselors and librarians but excluding administrators and coordinators, principals, supervisors, non-instructional personnel, substitute teachers, office, clerical, maintenance, operating and per diem personnel. The parties are parties to a collective bargaining agreement that expired August 31, 1982.

On July 6, 1982, the Association filed a petition requesting that the Wisconsin Employment Relations Commission (WERC) initiate mediation-arbitration. An investigation was conducted by the WERC staff. On January 6, 1983, the parties submitted to the WERC their final offers as well as a stipulation on matters agreed upon.

On February 5, 1983, Jay E. Grenig was notified he had been selected as the mediator/arbitrator in this matter.

A mediation session was held in the District offices in Sturgeon Bay on March 9, 1983. The parties were unable to reach a voluntary settlement and the dispute was submitted to the Mediator/Arbitrator, serving in the capacity of arbitrator, on March 9, 1983.

The District was represented by Clifford B. Buelow, Attorney at Law, and James Gormley, Attorney at Law, Davis, Kuelthau, Vergeront, Stover, Werner & Goodland. The Association was represented by Lawrence G. Gerue, Program Director, Bayland Teachers United.

The parties were given full opportunity to present relevant evidence and arguments at the hearing. Upon receipt of the parties' briefs, the hearing was declared closed on April 26, 1983.

## II. FINAL OFFERS

The only issue separating the parties is salary. The District has proposed a base salary for 1982-83 of \$13,200. The Association has proposed a base salary of \$13,300. The District's offer amounts to a 7.9% salary increase and an 8.77% total package increase. The Association's offer results in an 8.7% salary increase and a 9.53% total package increase.

## III. STATUTORY CRITERIA

In determining whether to accept the District's offer or the Association's offer, the Arbitrator must give weight to the following statutory (Wis.Stats. § 111.70(4)(cm)7) criteria:

- a. The lawful authority of the employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and financial ability of the unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally in public employment in the same community and in comparable communities and in private employment in the same community and in comparable communities.
- e. The average consumer prices for goods and services, commonly known as the cost of living.
- f. The overall compensation presently received by the municipal employees, including direct wages, compensation, vacation, holidays, and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
- g. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- h. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, factfinding, arbitration, or otherwise between the parties in the public service.

#### IV. ISSUES

##### A. POSITIONS OF THE PARTIES

###### 1. The Association

Although the parties are in agreement as to the comparable districts (districts in the Packerland Conference), the Association disagrees with the District's argument that Southern Door be excluded because it is a two-year settlement negotiated during the 1981-82 school year. It also disagrees with the District's argument that Mishicot be dropped from the list of comparables because it was an arbitrated decision.

The Association argues that its offer is closer the average settlement rate of the comparable districts. It also contends that its offer is consistent with the benchmark settlement pattern.

According to the Association, the consumer price index should be discounted in deference to the established settlement pattern.

The Association asks that the Arbitrator disregard the District's introduction of government documents and unsubstantiated private industry employment records and newspaper articles to try and show the District cannot afford to pay each teacher an average of \$153.60 more.

###### 2. The District

The District is in basic agreement with the districts to be used for purposes of comparison but questions whether the second year of the two-year Southern Door agreement should be used as a comparable; whether the Mishicot med/arb award should be used as a comparable; and whether the final offers submitted by the Algoma Board of Education and the Algoma Education Association should be used for purposes of comparison.

The District urges the Arbitrator to apply the ten-benchmark analysis because this approach was the "law" of the Packerland Conference at the time the parties submitted their final offers. It contends that the Association's use of percentages is inappropriate given the District's relative salary leadership in the Packerland Conference.

Using the dollar increase method, the District asserts that its offer is closer to the average dollar increase in each and every one of the ten benchmarks.

The District contends that its offer is strongly supported by the falling CPI. When the parties' agreement expired in August 1982 the Milwaukee CPI (Urban Wage Earners) was 2.89%. According to the District, regardless of which index is used, the CPI increase clearly demonstrates that the Association's proposed package increase of 9.53% is unreasonable.

The District submits that its final offer should also be analyzed in light of the high unemployment rate in Door County. It says the county unemployment rate in August 1982 was 11.8%, up 119% over the previous August. In January 1983 the unemployment rate was 22.7%, compared with 12.7% in January 1982. The District declares that the District teachers have enjoyed stability of employment.

Finally, the District urges the Arbitrator to accept its offer given the obviously distressed nature of the local economy. It notes that welfare claims in Door County have in-

creased while tax delinquencies had increased by 33.7% in August 1982.

#### B. FINDINGS OF FACT

1. Lawful Authority of the Employer. There is no contention that the District lacks the lawful authority to implement either proposal.

2. Stipulations. While the parties were in agreement on a number of facts, there were no stipulations with respect to this issue.

3. Interests and Welfare of the Public and Financial Ability to Pay. While the District does not claim financial inability to pay the Association's offer, it contends that Union's proposal is not in the interests and welfare of the public.

The District is located in Door County. The record establishes that in August 1982 the Door County unemployment rate was 11.8%, up over one hundred percent from the previous August. In January 1983 the unemployment rate in Door County was 22.7% compared with 12.7% in January 1982.

The District's largest employer is Bay Shipbuilding Corp. In January 1980 Bay Ship employed 1,335 union employees. In August 1981 it employed 1,056. In August 1982 Bay Ship employed 686; in January 1983, 291; in March 1983, 129. Thus, as of the arbitration hearing, the number of union employees was only 9.6% of its January 1980 level.

In addition, the number of welfare claims in Door County have increased substantially and tax delinquencies increased by 33.7% from August 1981 to August 1982.

According to an exhibit introduced by the Association, the District had the highest tax levy rate of the comparable districts in 1981-82.

#### 4. Comparison of Wages, Hours, and Conditions of Employment.

a. Introduction. Because the Southern Door settlement is the product of a two-year agreement negotiated under far different economic circumstances, it is not appropriate to consider the rate of increases in the Southern Door salary schedule for 1982-83. See Sch. Dist. of Cudahy, Dec. No. 19635-A (Gundermann 1982); Sch. Dist. of South Milwaukee, Dec. No. 19668-A (Mueller 1982); Tri-County Area Sch. Dist., Dec. No. 19691-A (Michelstetter 1983).

As Arbitrator Gundermann stated in Cudahy:

Where the pattern of settlements did not evolve during the period under consideration, as in this case, the undersigned is persuaded that those criteria which more closely reflect the current economic environment must prevail.

The Mishicot mediation/arbitration award will be considered although it was involuntary. It is noted that the arbitrator in Mishicot determined that the employer's final offer was the more reasonable. It would seem that the employer's offer was in the approximate area of where it would have settled voluntarily. While the decision may have been based on the need for catchup give the 1981-82 salary schedules of the comparable districts, any salary schedule settlement is the product of numerous forces and influences.

Because of the wide disparity in the offers in Algoma School District, consideration of those offers is of limited value in this proceeding.

Accordingly, the comparisons will be made with the following school districts in the Packerland Conference: Denmark, Gibraltar, Kewaunee, Luxemburg, Mishicot and Sevastopol.

With respect to the Association's argument that government records and certain private industry statistics cannot be considered because they are hearsay, if this argument were accepted the Arbitrator would be precluded from considering evidence of settlement patterns, salary schedules and other information from the comparable districts. It is generally impossible to bring in witnesses with personal knowledge to testify to every piece of datum in an interest arbitration. If such witnesses were required, interest arbitration proceedings would become even more expensive and time consuming.

In determining what weight, if any, to give such evidence, an arbitrator must consider the reliability of the source, the method of keeping the records, and the opportunity of the opposing party to respond to the documents and verify their accuracy. In this proceeding the Association and District were both given an opportunity to examine the evidence after the hearing and raise any questions as to its accuracy or reliability.

b. Comparison of Dollar Increases

With respect to a comparison of dollar increases at the ten benchmarks used by the parties, the evidence shows the following:

1. BA Base: The average dollar increase is \$737. The District's proposed increase is \$725 and the Association's proposed increase is \$825. The District's proposal is \$75 closer to the average dollar increase than the Association's.

2. BA7: The average dollar increase is \$955. The District's proposed increase is \$940 and the Association's is \$1,070. The District's offer is \$100 closer to the average dollar increase than the Association's.

3. BA Max (No Longevity): The average dollar increase is \$1,242. The District's proposed increase is \$1,230 and the Association's is \$1,400. The District's offer is \$146 closer to the average dollar increase at this benchmark than the Association's.

4. BA Max (Plus Longevity): The average dollar increase is \$1,275. The District's proposed increase is \$1,275. The Association's is \$1,400. The District's proposal is \$80 closer to the average dollar increase than the Association's.

5. MA Base: The average dollar increase is \$820. The District's proposed increase is \$790 and the Association's is \$890. The District's offer is \$40 closer to the average dollar increase than the Association's.

6. MA10: The average dollar increase is \$1,177. The District's proposed increase is \$1,110 and the Association's is \$1,260. The District's offer is \$16 closer to the average than the Association's.

7. MA Max (No Longevity): The average dollar increase is \$1,374. The District's proposed increase is \$1,330 and the Association's proposed increase is \$1,510. The District's offer is \$92 closer to the average dollar increase than the Association's offer.

8. MA Max (Plus Longevity): The average dollar increase is \$1,357. The District's proposed increase is \$1,330 and the Association is \$1,510. The District's offer is \$126 closer to the average dollar increase than the Association's.

9. Sched Max (No Longevity): The average dollar increase is \$1,411. The District's proposed increase is \$1,330 and the Association's is \$1,510. The District's offer is \$18 closer to the average dollar increase than the Association's.

10. Sched Max (Plus Longevity): The average dollar increase is \$1,394. The District's proposed increase is \$1,330 and the Association's is \$1,510. The District's offer is \$52 closer to the average dollar increase than the Association's.

The overall average teacher salary increase granted by the comparable districts is \$1,526. The District's proposed average increase is \$1,495 and the Association's is \$1,648. The District's offer is \$91 closer to the overall average dollar increase than the Association's.

### c. Comparison of Percentage Increases

1. BA Base: The average percentage increase is 6%. The Association proposes a 6.6% increase; the District, a 5.8% increase. The District's proposal is .4% closer to the average percentage increase.

2. BA7: The average percentage increase is 6%. The Association's proposal is a 6.6% increase and the District's is a 5.8% increase. The District's proposal is .4% closer to the average percentage increase than the Association's proposal.

3. BA Max: The average percentage increase is 6.3%. The Association's proposal is a 6.6% increase and the District's is a 5.8% increase. The Association's proposal is .2% closer to the average percentage increase than the District's.

4. MA Base: The average percentage increase is 6.2%. The Association's proposal is a 6.6% increase and the District's is a 5.9% increase. The District's proposal is .1% closer to the average percentage increase than the Association's proposal.

5. MA10: The average percentage increase is 6.3%. The Association's proposal is a 6.6% increase and the District's is 5.8%. The Association's proposal is .2% closer to the average percentage increase than the District's.

6. MA Max: The average percentage increase is 6.3%. The Association's proposal is a 6.5% increase and the District's is 5.8%. The Association's proposal is .3% closer to the average percentage increase than the District's.

7. Sched Max: The average percentage increase is 6.4%. The Association's proposal is for a 6.3% increase and the District's is for a 5.6% increase. The Association's proposal is .7% closer to the average percentage increase.

The average salary percentage increase is 8.36%. The District's proposal is for a 7.9% increase while the Association's proposal provides for an 8.7% increase. The Association's proposal is .12% closer to the average.

### d. SCHEDULE RANKING

1. BA Base: In 1981-82 the District ranked first out of the seven districts. The District's proposal will rank it second and the Association's first in 1982-83.

2. BA7: In 1981-82 the District ranked second out of the seven. Both proposals will maintain this ranking.

3. BA Max (No Longevity): In 1981-82 the District ranked first out of the seven. Both proposals will maintain this ranking.

4. BA Max (Plus Longevity): In 1981-82 the District ranked first out of seven. Both proposals will maintain this ranking.

5. MA Base: In 1981-82 the District ranked first out of seven. Both proposals will maintain this ranking.

6. MA8: In 1981-82 the District ranked second out of the seven comparable districts. The District's proposal will place the District third and the Association second.

7. MA Max (No Longevity): In 1981-82 the District ranked first out of the seven. Both proposals will maintain this ranking.

8. MA Max (Plus Longevity): In 1981-82 the District ranked first out of the seven. Both proposals will maintain this ranking.

9. Sched Max (No Longevity): In 1981-82 the District ranked first out of the seven. Both proposals will maintain this ranking.

10. Sched Max (Plus Longevity): In 1981-82 the District ranked first out of the seven. Both proposals will maintain this ranking.

In summary both proposals will maintain the District's ranking at eight of the ten benchmarks. The District's proposal would cause the District to fall one place at two of the benchmarks. At the BA Base, the District would fall \$50 a year behind the first place district (Gibraltar). At MA8 the District would fall \$102 per year behind the second place district at this benchmark.

5. Cost of Living. The cost of living as measured by the CPI for All Urban Wage Earners (U.S.) increased by 5.8% from August 1981 to August 1982. The CPI for All Urban Wage Earners in the Milwaukee Metropolitan Area increased by 2.9% during the same period. Both offers exceed the increase in the CPI.

Because cost of living increases are generally "catch up" in effect, the increase in the CPI since August 1982 is not material in this proceeding. See Hartford Sch. Dist., Dec. No. 18845 (Zeidler 1982); City of Franklin, Dec. No. 19569 (Imes 1982).

There is no reason to limit wage adjustments to increases in the cost of living if the other statutory criteria indicate that a larger increase is justified.

6. Overall Compensation. There is no evidence that District teachers have been laid off or are working reduced work hours.

7. Changes During the Pendency of the Arbitration Proceeding. There were no relevant changes during the pendency of the arbitration proceeding.

8. Other Factors. This criterion recognizes that collective bargaining is not isolated from those factors which comprise the economic environment in which collective bargaining occurs. Cudahy Schools, Dec. No. 19635 (Gunder-

mann 1982); Madison Schools, Dec. 19133 (Fleischli 1982). Evidence relating to this criterion has been discussed under the criterion relating to the interests of the public.

### C. ANALYSIS

At every one of the ten benchmarks the dollar increase of the District's offer is higher than the average dollar increase in the comparable districts. The District's average dollar increase is closer to the overall average teacher salary increase of the comparable districts.

Comparing the percentage increases of the comparable districts, the Association's offer is closer to the average percentage increase at five of eight of the benchmarks. The Association's proposal is closer to the average overall percentage salary increase.

With respect to schedule ranking, both proposals will maintain the District's 1981-82 school year ranking at eight of the ten benchmarks compared. Its ranking will slip to second place at one benchmark (only \$50 a year behind the first place District) and from second to third (\$102 behind the second place district), if the District's offer is accepted.

Arbitrators have generally indicated that greater weight should be placed upon the monetary increases of the comparable districts than the percentage increases. Waukesha County Tech. Inst., Dec. No. 18804-A (Gundermann 1982); Hartford Union High Sch. Dist., Dec. No. 18845-A (Zeidler 1982). Dollar increases more accurately reflect the real increase in salary. Based on the comparison of monetary increases of the comparable districts, the District's offer appears to be more reasonable than the Association's.

Both offers are reasonable when compared with increases in the cost of living as measured by the CPI. Both offers enable teachers to make up for any past differences between the CPI and salary increases.

The conclusion that the District's offer is more reasonable than the Association's also finds support in the evidence showing extremely high unemployment in Door County and the increase in tax delinquencies in the county. A number of recent awards have suggested that arbitrators should give substantial weight to the state of the economy. DePere Educ. Ass'n, Dec. No. 19728-A (Vernon 1982); Cudahy Schools, Dec. 19635-A (Gundermann 1982); Sch. Dist. of South Milwaukee, Dec. 19668-A (Mueller 1982); Madison Area Voc., Tech. & Adult Educ. Dist., Dec. 19793-A (Mueller 1982).

### D. CONCLUSION

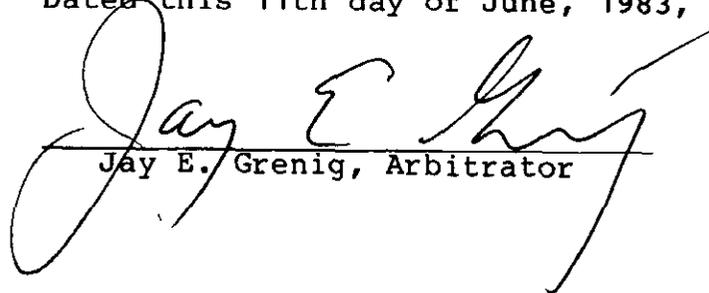
Both offers maintain the District's relative position with respect to the seven comparison districts. The District's offer is closer to the dollar increases of the comparison districts. Finally, the District's offer is more reasonable when examined in light of the economic problems in Door County. Accordingly, the Arbitrator is persuaded that the District's offer is more reasonable than the Association's.

### V. AWARD

Having considered all the evidence and arguments submitted in this matter in accordance with the statutory criteria, it is the Arbitrator's decision that the District's final of-

fer be incorporated into the collective bargaining agreement.

Dated this 11th day of June, 1983, at Waukesha, Wisconsin.

  
Jay E. Grenig, Arbitrator